

BEFORE THE HUMAN RIGHTS COMMISSION
OF THE STATE OF MONTANA

PHILLIP HOLLIDAY,

Charging Party

-v-

CAPITAL ELECTRIC HARDIN,

Respondent

Case Number: 0079012242

ORDER

Phillip Holliday (Holliday) filed a complaint with the Department of Labor and Industry (Department) alleging that Capital Electric Hardin discriminated against him based on his race during his employment. The Department issued a Notice of Dismissal on Holliday's state law claims because he failed to file within 180 days as required by the Montana Human Rights Act under § 49-2-501(4), MCA. Holliday filed an objection with the Montana Human Rights Commission (Commission). The Commission considered the matter on March 22, 2007.

The Commission reviews a decision of the Department to dismiss a complaint using an abuse of discretion standard. *Mont. Code Ann. § 49-2-509(4)(2005); Admin. R. Mont. 24.9.1714(3)*. After careful consideration, the Commission concludes the determination of the Department to dismiss the complaint is not an abuse of discretion.

A party may ask a district court to review the decision of the Commission to affirm the dismissal of a complaint. *Admin. R. Mont. 24.9.1714(7); See also Mont. Code Ann. § 2-4-702; § 49-2-509(4)*.

Alternatively, if a charging party chooses to commence a civil action, charging party has 90 days after the receipt of this order to petition a district court, in the district where the alleged violation occurred, for the appropriate relief. *Mont. Code Ann. § 49-2-*

509(5) (2005); Admin. R. Mont. 24.9.1714(5). If a charging party fails to commence a civil action within 90 days, the claim is time barred. *Id.*

IT IS HEREBY ORDERED, that Phillip Holliday's objection is **overruled**. The Commission affirms the determination of the Human Rights Bureau to dismiss only the state law claims against Capital Electric Hardin.

DATED this ____ day of April, 2007.

Chair Ryan C. Rusche
Human Rights Commission

CERTIFICATE OF SERVICE

The undersigned secretary for the Human Rights Commission certifies that a true and correct copy of the foregoing ORDER was mailed to the following by U.S. Mail, postage prepaid, on this ____ day of April, 2007.

PHILLIP HOLLIDAY
2160 PUEBLO DRIVE
BILLINGS MT 59102

CAPITAL ELECTRIC HARDIN
MANAGER
PO BOX 1144A
HARDIN MT 59034

Montana Human Rights Bureau